

109TH CONGRESS
1ST SESSION

S. 155

To increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 25, 2005

Mrs. FEINSTEIN (for herself, Mr. HATCH, Mr. GRASSLEY, Mr. CORNYN, and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Gang Prevention and Effective Deterrence Act of 2005”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CRIMINAL STREET GANG ABATEMENT ACT

Sec. 100. Findings.

**SUBTITLE A—CRIMINAL LAW REFORMS AND ENHANCED PENALTIES TO
DETER AND PUNISH ILLEGAL STREET GANG ACTIVITY**

Sec. 101. Solicitation or recruitment of persons in criminal street gang activity.

Sec. 102. Criminal street gangs.

Sec. 103. Violent crimes in furtherance or in aid of criminal street gangs.

Sec. 104. Interstate and foreign travel or transportation in aid of criminal street
gangs.

Sec. 105. Amendments relating to violent crime in areas of exclusive Federal
jurisdiction.

Sec. 106. Increased penalties for use of interstate commerce facilities in the
commission of murder-for-hire and other felony crimes of vio-
lence.

Sec. 107. Increased penalties for violent crimes in aid of racketeering activity.

Sec. 108. Murder and other violent crimes committed during and in relation to
a drug trafficking crime.

**SUBTITLE B—INCREASED FEDERAL RESOURCES TO DETER AND PREVENT
AT-RISK YOUTH FROM JOINING ILLEGAL STREET GANGS**

Sec. 110. Designation of and assistance for “high intensity” interstate gang ac-
tivity areas.

Sec. 111. Enhancement of project safe neighborhoods initiative to improve en-
forcement of criminal laws against violent gangs.

Sec. 112. Additional resources needed by the Federal Bureau of Investigation
to investigate and prosecute violent criminal street gangs.

Sec. 113. Grants to State and local prosecutors to combat violent crime and to
protect witnesses and victims of crimes.

Sec. 114. Reauthorize the gang resistance education and training projects pro-
gram.

**TITLE II—VIOLENT CRIME REFORMS NEEDED TO DETER AND
PREVENT ILLEGAL GANG CRIME**

Sec. 201. Multiple interstate murder.

Sec. 202. Expansion of rebuttable presumption against release of persons
charged with firearms offenses.

Sec. 203. Venue in capital cases.

Sec. 204. Statute of limitations for violent crime.

Sec. 205. Predicate crimes for authorization of interception of wire, oral, and electronic communications.

Sec. 206. Clarification to hearsay exception for forfeiture by wrongdoing.

Sec. 207. Clarification of venue for retaliation against a witness.

Sec. 208. Amendment of sentencing guidelines relating to certain gang and violent crimes.

Sec. 209. Increased penalties for criminal use of firearms in crimes of violence and drug trafficking.

Sec. 210. Possession of firearms by dangerous felons.

Sec. 211. Conforming amendment.

TITLE III—JUVENILE CRIME REFORM FOR VIOLENT OFFENDERS

Sec. 301. Treatment of Federal juvenile offenders.

Sec. 302. Notification after arrest.

Sec. 303. Release and detention prior to disposition.

Sec. 304. Speedy trial.

Sec. 305. Federal sentencing guidelines.

1 **TITLE I—CRIMINAL STREET** 2 **GANG ABATEMENT ACT**

3 **SEC. 100. FINDINGS.**

4 Congress finds that—

5 (1) violent crime and drug trafficking are per-
6 vasive problems at the national, State, and local
7 level;

8 (2) the crime rate is exacerbated by the associa-
9 tion of persons in gangs to commit acts of violence
10 and drug offenses;

11 (3) according to the most recent National Drug
12 Threat Assessment, criminal street gangs are re-
13 sponsible for the distribution of much of the cocaine,
14 methamphetamine, heroin, and other illegal drugs
15 being distributed in rural and urban communities
16 throughout the United States;

1 (4) gangs commit acts of violence or drug of-
2 fenses for numerous motives, such as membership in
3 or loyalty to the gang, for protecting gang territory,
4 and for profit;

5 (5) gang presence has a pernicious effect on the
6 free flow of commerce in local businesses and di-
7 rectly affects the freedom and security of commu-
8 nities plagued by gang activity;

9 (6) gangs often recruit and utilize minors to en-
10 gage in acts of violence and other serious offenses
11 out of a belief that the criminal justice systems are
12 more lenient on juvenile offenders;

13 (7) gangs often intimidate and threaten wit-
14 nesses to prevent successful prosecutions;

15 (8) gang recruitment can be deterred through
16 increased vigilance, strong criminal penalties, equal
17 partnerships with State and local law enforcement,
18 and proactive intervention efforts, particularly tar-
19 geted at juveniles, prior to gang involvement;

20 (9) State and local prosecutors, in hearings be-
21 fore the Committee on the Judiciary of the Senate,
22 enlisted the help of Congress in the prevention, in-
23 vestigation, and prosecution of gang crimes and in
24 the protection of witnesses and victims of gang
25 crimes; and

1 (10) because State and local prosecutors and
 2 law enforcement have the expertise, experience, and
 3 connection to the community that is needed to com-
 4 bat gang violence, consultation and coordination be-
 5 tween Federal, State, and local law enforcement is
 6 critical to the successful prosecutions of criminal
 7 street gangs.

8 **Subtitle A—Criminal Law Reforms**
 9 **and Enhanced Penalties To**
 10 **Deter and Punish Illegal Street**
 11 **Gang Activity**

12 **SEC. 101. SOLICITATION OR RECRUITMENT OF PERSONS IN**
 13 **CRIMINAL STREET GANG ACTIVITY.**

14 Chapter 26 of title 18, United States Code, is amend-
 15 ed by adding at the end the following:

16 **“§ 522. Recruitment of persons to participate in a**
 17 **criminal street gang**

18 “(a) PROHIBITED ACTS.—It shall be unlawful for any
 19 person to recruit, employ, solicit, induce, command, or
 20 cause another person to be or remain as a member of a
 21 criminal street gang, or conspire to do so, with the intent
 22 to cause that person to participate in an offense described
 23 in section 521(a).

24 “(b) DEFINITION.—In this section:

1 “(1) CRIMINAL STREET GANG.—The term
2 ‘criminal street gang’ shall have the same meaning
3 as in section 521(a) of this title.

4 “(2) MINOR.—The term ‘minor’ means a per-
5 son who is less than 18 years of age.

6 “(c) PENALTIES.—Any person who violates sub-
7 section (a) shall—

8 “(1) be imprisoned not more than 5 years, fined
9 under this title, or both; or

10 “(2) if the person recruited, solicited, induced,
11 commanded, or caused to participate or remain in a
12 criminal street gang is under the age of 18—

13 “(A) be imprisoned for not more than 10
14 years, fined under this title, or both; and

15 “(B) at the discretion of the sentencing
16 judge, be liable for any costs incurred by the
17 Federal Government, or by any State or local
18 government, for housing, maintaining, and
19 treating the person until the person attains the
20 age of 18 years.”.

21 **SEC. 102. CRIMINAL STREET GANGS.**

22 (a) CRIMINAL STREET GANG PROSECUTIONS.—Sec-
23 tion 521 of title 18, United States Code, is amended to
24 read as follows:

1 **“§ 521. Criminal street gang prosecutions**

2 “(a) DEFINITIONS.—As used in this chapter:

3 “(1) CRIMINAL STREET GANG.—The term
4 ‘criminal street gang’ means a formal or informal
5 group, club, organization, or association of 3 or
6 more individuals, who individually, jointly, or in
7 combination, have committed or attempted to com-
8 mit for the direct or indirect benefit of, at the direc-
9 tion of, in furtherance of, or in association with the
10 group, club organization, or association at least 2
11 separate acts, each of which is a predicate gang
12 crime, 1 of which occurs after the date of enactment
13 of the Gang Prevention and Effective Deterrence
14 Act of 2004 and the last of which occurs not later
15 than 10 years (excluding any period of imprison-
16 ment) after the commission of a prior predicate gang
17 crime, and 1 predicate gang crime is a crime of vio-
18 lence or involves manufacturing, importing, distrib-
19 uting, possessing with intent to distribute, or other-
20 wise dealing in a controlled substance or listed
21 chemicals (as those terms are defined in section 102
22 of the Controlled Substances Act (21 U.S.C. 802))
23 provided that the activities of the criminal street
24 gang affect interstate or foreign commerce, or in-
25 volve the use of any facility of, or travel in, inter-
26 state or foreign commerce.

1 “(2) PREDICATE GANG CRIME.—The term
2 ‘predicate gang crime’ means—

3 “(A) any act, threat, conspiracy, or at-
4 tempted act, which is chargeable under Federal
5 or State law and punishable by imprisonment
6 for more than 1 year involving—

7 “(i) murder;

8 “(ii) manslaughter;

9 “(iii) maiming;

10 “(iv) assault with a dangerous weap-
11 on;

12 “(v) assault resulting in serious bodily
13 injury;

14 “(vi) gambling;

15 “(vii) kidnapping;

16 “(viii) robbery;

17 “(ix) extortion;

18 “(x) arson;

19 “(xi) obstruction of justice;

20 “(xii) tampering with or retaliating
21 against a witness, victim, or informant;

22 “(xiii) burglary;

23 “(xiv) sexual assault (which means
24 any offense that involves conduct that
25 would violate chapter 109A if the conduct

1 occurred in the special maritime and terri-
2 torial jurisdiction);

3 “(xv) carjacking; or

4 “(xvi) manufacturing, importing, dis-
5 tributing, possessing with intent to dis-
6 tribute, or otherwise dealing in a controlled
7 substance or listed chemicals (as those
8 terms are defined in section 102 of the
9 Controlled Substances Act (21 U.S.C.
10 802));

11 “(B) any act punishable by imprisonment
12 for more than 1 year under—

13 “(i) section 844 (relating to explosive
14 materials);

15 “(ii) section 922(g)(1) (where the un-
16 derlying conviction is a violent felony (as
17 defined in section 924(e)(2)(B) of this
18 title) or is a serious drug offense (as de-
19 fined in section 924(e)(2)(A) of this title));

20 “(iii) subsection (a)(2), (b), (c), (g),
21 or (h) of section 924 (relating to receipt,
22 possession, and transfer of firearms);

23 “(iv) sections 1028 and 1029 (relating
24 to fraud and related activity in connection

1 with identification documents or access de-
2 vices);

3 “(v) section 1503 (relating to obstruc-
4 tion of justice);

5 “(vi) section 1510 (relating to ob-
6 struction of criminal investigations);

7 “(vii) section 1512 (relating to tam-
8 pering with a witness, victim, or inform-
9 ant), or section 1513 (relating to retali-
10 ating against a witness, victim, or inform-
11 ant);

12 “(viii) section 1708 (relating to theft
13 of stolen mail matter);

14 “(ix) section 1951 (relating to inter-
15 ference with commerce, robbery or extor-
16 tion);

17 “(x) section 1952 (relating to racket-
18 eering);

19 “(xi) section 1956 (relating to the
20 laundering of monetary instruments);

21 “(xii) section 1957 (relating to engag-
22 ing in monetary transactions in property
23 derived from specified unlawful activity);

1 “(xiii) section 1958 (relating to use of
 2 interstate commerce facilities in the com-
 3 mission of murder-for-hire); or

4 “(xiv) sections 2312 through 2315
 5 (relating to interstate transportation of
 6 stolen motor vehicles or stolen property);
 7 or

8 “(C) any act involving the Immigration
 9 and Nationality Act, section 274 (relating to
 10 bringing in and harboring certain aliens), sec-
 11 tion 277 (relating to aiding or assisting certain
 12 aliens to enter the United States), or section
 13 278 (relating to importation of alien for im-
 14 moral purpose).

15 “(3) STATE.—The term ‘State’ means each of
 16 the several States of the United States, the District
 17 of Columbia, and any commonwealth, territory, or
 18 possession of the United States.

19 “(b) PARTICIPATION IN CRIMINAL STREET GANGS.—
 20 It shall be unlawful—

21 “(1) to commit, or conspire or attempt to com-
 22 mit a predicate crime—

23 “(A) in furtherance or in aid of the activi-
 24 ties of a criminal street gang;

1 “(B) for the purpose of gaining entrance
 2 to or maintaining or increasing position in such
 3 a gang; or

4 “(C) for the direct or indirect benefit of
 5 the criminal street gang, or in association with
 6 the criminal street gang; or

7 “(2) to employ, use, command, counsel, per-
 8 suade, induce, entice, or coerce any individual to
 9 commit, cause to commit, or facilitate the commis-
 10 sion of, a predicate gang crime—

11 “(A) in furtherance or in aid of the activi-
 12 ties of a criminal street gang;

13 “(B) for the purpose of gaining entrance
 14 to or maintaining or increasing position in such
 15 a gang; or

16 “(C) for the direct or indirect benefit or
 17 the criminal street gang, or in association with
 18 the criminal street gang.

19 “(c) PENALTIES.—Whoever violates paragraph (1) or
 20 (2) of subsection (b)—

21 “(1) shall be fined under this title, imprisoned
 22 for not more than 30 years, or both; and

23 “(2) if the violation is based on a predicate
 24 gang crime for which the maximum penalty includes

1 life imprisonment, shall be fined under this title, im-
2 prisoned for any term of years or for life, or both.

3 “(d) FORFEITURE.—

4 “(1) IN GENERAL.—The court, in imposing sen-
5 tence on a person who is convicted of an offense
6 under this section, shall order that the defendant
7 forfeit to the United States—

8 “(A) any property, real or personal, consti-
9 tuting or traceable to gross proceeds obtained
10 from such offense; and

11 “(B) any property used or intended to be
12 used, in any manner or part, to commit or to
13 facilitate the commission of such violation.

14 “(2) CRIMINAL PROCEDURES.—The procedures
15 set forth in section 413 of the Controlled Substances
16 Act (21 U.S.C. 853), other than subsection (d) of
17 that section, and in rule 32.2 of the Federal Rules
18 of Criminal Procedure, shall apply to all stages of a
19 criminal forfeiture proceeding under this section.

20 “(3) CIVIL PROCEDURES.—Property subject to
21 forfeiture under paragraph (1) may be forfeited in
22 a civil case pursuant to the procedures set forth in
23 chapter 46 of this title.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of chapter 26 of title 18, United States
 3 Code, is amended to read as follows:

“521. Criminal street gang prosecutions.”.

4 **SEC. 103. VIOLENT CRIMES IN FURTHERANCE OR IN AID OF**
 5 **CRIMINAL STREET GANGS.**

6 (a) VIOLENT CRIMES AND CRIMINAL STREET GANG
 7 RECRUITMENT.—Chapter 26 of title 18, United States
 8 Code, as amended by section 101, is amended by adding
 9 at the end the following:

10 **“§ 523. Violent crimes in furtherance or in aid of a**
 11 **criminal street gang**

12 “(a) Any person who, for the purpose of gaining en-
 13 trance to or maintaining or increasing position in, or in
 14 furtherance or in aid of, or for the direct or indirect ben-
 15 efit of, or in association with a criminal street gang, or
 16 as consideration for the receipt of, or as consideration for
 17 a promise or agreement to pay, anything of pecuniary
 18 value to or from a criminal street gang, murders, kidnaps,
 19 sexually assaults (which means any offense that involved
 20 conduct that would violate chapter 109A if the conduct
 21 occurred in the special maritime and territorial jurisdic-
 22 tion), maims, assaults with a dangerous weapon, commits
 23 assault resulting in serious bodily injury upon, commits
 24 any other crime of violence or threatens to commit a crime
 25 of violence against any individual, or attempts or conspires

1 to do so, shall be punished, in addition and consecutive
2 to the punishment provided for any other violation of this
3 chapter—

4 “(1) for murder, by death or imprisonment for
5 any term of years or for life, a fine under this title,
6 or both;

7 “(2) for kidnapping or sexual assault, by im-
8 prisonment for any term of years or for life, a fine
9 under this title, or both;

10 “(3) for maiming, by imprisonment for any
11 term of years or for life, a fine under this title, or
12 both;

13 “(4) for assault with a dangerous weapon or as-
14 sault resulting in serious bodily injury, by imprison-
15 ment for not more than 30 years, a fine under this
16 title, or both;

17 “(5) for any other crime of violence, by impris-
18 onment for not more than 20 years, a fine under
19 this title, or both;

20 “(6) for threatening to commit a crime of vio-
21 lence specified in paragraphs (1) through (4), by im-
22 prisonment for not more than 10 years, a fine under
23 this title, or both;

24 “(7) for attempting or conspiring to commit
25 murder, kidnapping, maiming, or sexual assault, by

1 imprisonment for not more than 30 years, a fine
2 under this title, or both; and

3 “(8) for attempting or conspiring to commit a
4 crime involving assault with a dangerous weapon or
5 assault resulting in serious bodily injury, by impris-
6 onment for not more than 20 years, a fine under
7 this title, or both.

8 “(b) DEFINITION.—In this section, the term ‘crimi-
9 nal street gang’ has the same meaning as in section 521
10 of this title.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 at the beginning of chapter 26 of title 18, United States
13 Code, is amended by adding at the end the following:

“522. Recruitment of persons to participate in a criminal street gang.
“523. Violent crimes in furtherance of a criminal street gang.”.

14 **SEC. 104. INTERSTATE AND FOREIGN TRAVEL OR TRANS-**
15 **PORTATION IN AID OF RACKETEERING EN-**
16 **TERPRISES AND CRIMINAL STREET GANGS.**

17 Section 1952 of title 18, United States Code, is
18 amended—

19 (1) in subsection (a)—

20 (A) by striking “and thereafter performs
21 or attempts to perform” and inserting “and
22 thereafter performs, or attempts or conspires to
23 perform”;

1 (B) by striking “5 years” and inserting
2 “10 years”; and

3 (C) by inserting “punished by death or”
4 after “if death results shall be”;

5 (2) by redesignating subsections (b) and (c) as
6 subsections (c) and (d), respectively;

7 (3) by inserting after subsection (a) the fol-
8 lowing:

9 “(b) Whoever travels in interstate or foreign com-
10 merce or uses the mail or any facility in interstate or for-
11 eign commerce, with the intent to kill, assault, bribe, force,
12 intimidate, or threaten any person, to delay or influence
13 the testimony of, or prevent from testifying, a witness in
14 a State criminal proceeding and thereafter performs, or
15 attempts or conspires to perform, an act described in this
16 subsection, shall—

17 “(1) be fined under this title, imprisoned for
18 any term of years, or both; and

19 “(2) if death results, be punished by death or
20 imprisonment for any term of years or for life.”; and

21 (4) in subsection (c)(2), as redesignated under
22 subparagraph (B), by inserting “intimidation of, or
23 retaliation against, a witness, victim, juror, or in-
24 formant,” after “extortion, bribery,”.

1 **SEC. 105. AMENDMENTS RELATING TO VIOLENT CRIME IN**
 2 **AREAS OF EXCLUSIVE FEDERAL JURISDIC-**
 3 **TION.**

4 (a) ASSAULT WITHIN MARITIME AND TERRITORIAL
 5 JURISDICTION OF UNITED STATES.—Section 113(a)(3) of
 6 title 18, United States Code, is amended by striking “with
 7 intent to do bodily harm, and without just cause or ex-
 8 cause,”.

9 (b) MANSLAUGHTER.—Section 1112(b) of title 18,
 10 United States Code, is amended by—

11 (1) striking “ten years” and inserting “20
 12 years”; and

13 (2) striking “six years” and inserting “10
 14 years”.

15 (c) OFFENSES COMMITTED WITHIN INDIAN COUN-
 16 TRY.—Section 1153(a) of title 18, United States Code, is
 17 amended by inserting “an offense for which the maximum
 18 statutory term of imprisonment under section 1363 is
 19 greater than 5 years,” after “a felony under chapter
 20 109A,”.

21 (d) RACKETEER INFLUENCED AND CORRUPT ORGA-
 22 NIZATIONS.—Section 1961(1) of title 18, United States
 23 Code, is amended—

24 (1) in subparagraph (A), by inserting “, or
 25 would have been so chargeable if the act or threat
 26 (other than lawful forms of gambling) had not been

1 committed in Indian country (as defined in section
 2 1151) or in any other area of exclusive Federal ju-
 3 risdiction,” after “chargeable under State law”; and
 4 (2) in subparagraph (B), by inserting “section
 5 1123 (relating to multiple interstate murder),” after
 6 “section 1084 (relating to the transmission of wa-
 7 gering information),”.

8 (e) CARJACKING.—Section 2119 of title 18, United
 9 States Code, is amended by striking “, with the intent to
 10 cause death or serious bodily harm”.

11 (f) CLARIFICATION OF ILLEGAL GUN TRANSFERS TO
 12 COMMIT DRUG TRAFFICKING CRIME OR CRIMES OF VIO-
 13 LENCE.—Section 924(h) of title 18, United States Code,
 14 is amended to read as follows:

15 “(h) ILLEGAL TRANSFERS.—Whoever knowingly
 16 transfers a firearm, knowing that the firearm will be used
 17 to commit, or possessed in furtherance of, a crime of vio-
 18 lence (as defined in subsection (c)(3)) or drug trafficking
 19 crime (as defined in subsection (c)(2)), shall be imprisoned
 20 for not more than 10 years, fined under this title, or
 21 both.”.

22 (g) AMENDMENT OF SPECIAL SENTENCING PROVI-
 23 SION.—Section 3582(d) of title 18, United States Code,
 24 is amended—

1 (1) by striking “chapter 95 (racketeering) or 96
 2 (racketeer influenced and corrupt organizations) of
 3 this title” and inserting “section 521 (criminal
 4 street gangs) or 522 (violent crimes in furtherance
 5 or in aid of criminal street gangs), in chapter 95
 6 (racketeering) or 96 (racketeer influenced and cor-
 7 rupt organizations),”; and

8 (2) by inserting “a criminal street gang or” be-
 9 fore “an illegal enterprise”.

10 (h) CONFORMING AMENDMENT RELATING TO OR-
 11 DERS FOR RESTITUTION.—Section 3663(c)(4) of title 18,
 12 United States Code, is amended by striking “chapter 46
 13 or chapter 96 of this title” and inserting “section 521,
 14 under chapter 46 or 96,”.

15 (i) SPECIAL PROVISION FOR INDIAN COUNTRY.—No
 16 person subject to the criminal jurisdiction of an Indian
 17 tribal government shall be subject to section 3559(e) of
 18 title 18, United States Code, for any offense for which
 19 Federal jurisdiction is solely predicated on Indian country
 20 (as defined in section 1151 of such title 18) and which
 21 occurs within the boundaries of such Indian country un-
 22 less the governing body of such Indian tribe elects to sub-
 23 ject the persons under the criminal jurisdiction of the tribe
 24 to section 3559(e) of such title 18.

1 **SEC. 106. INCREASED PENALTIES FOR USE OF INTERSTATE**
2 **COMMERCE FACILITIES IN THE COMMISSION**
3 **OF MURDER-FOR-HIRE AND OTHER FELONY**
4 **CRIMES OF VIOLENCE.**

5 Section 1958 of title 18, United States Code, is
6 amended—

7 (1) by striking the header and inserting the fol-
8 lowing:

9 **“§ 1958. Use of interstate commerce facilities in the**
10 **Commission of murder-for-hire and other**
11 **felony crimes of violence”;**

12 and

13 (2) by amending subsection (a) to read as fol-
14 lows:

15 “(a) Any person who travels in or causes another (in-
16 cluding the intended victim) to travel in interstate or for-
17 eign commerce, or uses or causes another (including the
18 intended victim) to use the mail or any facility in inter-
19 state or foreign commerce, with intent that a murder or
20 other felony crime of violence be committed in violation
21 of the laws of any State or the United States as consider-
22 ation for the receipt of, or as consideration for a promise
23 or agreement to pay, anything of pecuniary value, or who
24 conspires to do so—

25 “(1) may be fined under this title and shall be
26 imprisoned not more than 20 years;

1 “(2) if personal injury results, may be fined
2 under this title and shall be imprisoned for not more
3 than 30 years; and

4 “(3) if death results, may be fined not more
5 than \$250,000, and shall be punished by death or
6 imprisoned for any term of years or for life, or
7 both.”.

8 **SEC. 107. INCREASED PENALTIES FOR VIOLENT CRIMES IN**
9 **AID OF RACKETEERING ACTIVITY.**

10 Section 1959(a) of title 18, United States Code, is
11 amended to read as follows:

12 “(a) Any person who, as consideration for the receipt
13 of, or as consideration for a promise or agreement to pay,
14 anything of pecuniary value from an enterprise engaged
15 in racketeering activity, or for the purpose of gaining en-
16 trance to or maintaining or increasing position in an en-
17 terprise engaged in racketeering activity, or in furtherance
18 or in aid of an enterprise engaged in racketeering activity,
19 murders, kidnaps, sexually assaults (which means any of-
20 fense that involved conduct that would violate chapter
21 109A if the conduct occurred in the special maritime and
22 territorial jurisdiction), maims, assaults with a dangerous
23 weapon, commits assault resulting in serious bodily injury
24 upon, or threatens to commit a crime of violence against
25 any individual in violation of the laws of any State or the

1 United States, or attempts or conspires to do so, shall be
2 punished, in addition and consecutive to the punishment
3 provided for any other violation of this chapter—

4 “(1) for murder, by death or imprisonment for
5 any term of years or for life, a fine under this title,
6 or both;

7 “(2) for kidnapping or sexual assault, by im-
8 prisonment for any term of years or for life, a fine
9 under this title, or both;

10 “(3) for maiming, by imprisonment for any
11 term of years or for life, a fine under this title, or
12 both;

13 “(4) for assault with a dangerous weapon or as-
14 sault resulting in serious bodily injury, by imprison-
15 ment for not more than 30 years, a fine under this
16 title, or both;

17 “(5) for threatening to commit a crime of vio-
18 lence, by imprisonment for not more than 10 years,
19 a fine under this title, or both;

20 “(6) for attempting or conspiring to commit
21 murder, kidnapping, maiming, or sexual assault, by
22 imprisonment for not more than 30 years, a fine
23 under this title, or both; and

24 “(7) for attempting or conspiring to commit as-
25 sault with a dangerous weapon or assault which

1 would result in serious bodily injury, by imprison-
 2 ment for not more than 20 years, a fine under this
 3 title, or both.”.

4 **SEC. 108. MURDER AND OTHER VIOLENT CRIMES COM-**
 5 **MITTED DURING AND IN RELATION TO A**
 6 **DRUG TRAFFICKING CRIME.**

7 (a) IN GENERAL.—Part D of the Controlled Sub-
 8 stances Act (21 U.S.C. 841 et seq.) is amended by adding
 9 at the end the following:

10 “MURDER AND OTHER VIOLENT CRIMES COMMITTED
 11 DURING AND IN RELATION TO A DRUG TRAFFICKING
 12 CRIME

13 “SEC. 424. (a) IN GENERAL.—Any person who, dur-
 14 ing and in relation to any drug trafficking crime, murders,
 15 kidnaps, sexually assaults (which means any offense that
 16 involved conduct that would violate chapter 109A if the
 17 conduct occurred in the special maritime and territorial
 18 jurisdiction), maims, assaults with a dangerous weapon,
 19 commits assault resulting in serious bodily injury upon,
 20 commits any other crime of violence or threatens to com-
 21 mit a crime of violence against, any individual, or attempts
 22 or conspires to do so, shall be punished, in addition and
 23 consecutive to the punishment provided for the drug traf-
 24 ficking crime—

1 “(1) in the case of murder, by death or impris-
2 onment for any term of years or for life, a fine
3 under title 18, United States Code, or both;

4 “(2) in the case of kidnapping or sexual assault
5 by imprisonment for any term of years or for life,
6 a fine under such title 18, or both;

7 “(3) in the case of maiming, by imprisonment
8 for any term of years or for life, a fine under such
9 title 18, or both;

10 “(4) in the case of assault with a dangerous
11 weapon or assault resulting in serious bodily injury,
12 by imprisonment not more than 30 years, a fine
13 under such title 18, or both;

14 “(5) in the case of committing any other crime
15 of violence, by imprisonment for not more than 20
16 years, a fine under this title, or both;

17 “(6) in the case of threatening to commit a
18 crime of violence specified in paragraphs (1) through
19 (4), by imprisonment for not more than 10 years, a
20 fine under such title 18, or both;

21 “(7) in the case of attempting or conspiring to
22 commit murder, kidnapping, maiming, or sexual as-
23 sault, by imprisonment for not more than 30 years,
24 a fine under such title 18, or both; and

1 “(8) in the case of attempting or conspiring to
 2 commit a crime involving assault with a dangerous
 3 weapon or assault resulting in serious bodily injury,
 4 by imprisonment for not more than 20 years, a fine
 5 under such title 18, or both.

6 “(b) VENUE.—A prosecution for a violation of this
 7 section may be brought in—

8 “(1) the judicial district in which the murder or
 9 other crime of violence occurred; or

10 “(2) any judicial district in which the drug traf-
 11 ficking crime may be prosecuted.

12 “(c) APPLICABLE DEATH PENALTY PROCEDURES.—
 13 A defendant who has been found guilty of an offense under
 14 this section for which a sentence of death is provided shall
 15 be subject to the provisions of chapter 228 of title 18,
 16 United States Code.

17 “(d) DEFINITIONS.—As used in this section—

18 “(1) the term ‘crime of violence’ has the mean-
 19 ing given that term in section 16 of title 18, United
 20 States Code; and

21 “(2) the term ‘drug trafficking crime’ has the
 22 meaning given that term in section 924(c)(2) of title
 23 18, United States Code.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Controlled Substances Act is amended by inserting after the item relating to section 423, the following:

“Sec. 424. Murder and other violent crimes committed during and in relation to a drug trafficking crime.”.

Subtitle B—Increased Federal Resources To Suppress, Deter, and Prevent At-Risk Youth From Joining Illegal Street Gangs

SEC. 110. DESIGNATION OF AND ASSISTANCE FOR “HIGH INTENSITY” INTERSTATE GANG ACTIVITY AREAS.

(a) DEFINITIONS.—In this section the following definitions shall apply:

(1) GOVERNOR.—The term “Governor” means a Governor of a State or the Mayor of the District of Columbia.

(2) HIGH INTENSITY INTERSTATE GANG ACTIVITY AREA.—The term “high intensity interstate gang activity area” means an area within a State that is designated as a high intensity interstate gang activity area under subsection (b)(1).

(3) STATE.—The term “State” means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States. The term “State” shall include an

1 “Indian tribe”, as defined by section 102 of the Fed-
 2 erally Recognized Indian Tribe List Act of 1994 (25
 3 U.S.C. 479a).

4 (b) HIGH INTENSITY INTERSTATE GANG ACTIVITY
 5 AREAS.—

6 (1) DESIGNATION.—The Attorney General,
 7 after consultation with the Governors of appropriate
 8 States, may designate as high intensity interstate
 9 gang activity areas, specific areas that are located
 10 within 1 or more States. To the extent that the
 11 goals of a high intensity interstate gang activity area
 12 (HIIGAA) overlap with the goals of a high intensity
 13 drug trafficking area (HIDTA), the Attorney Gen-
 14 eral may merge the 2 areas to serve as a dual-pur-
 15 pose entity. The Attorney General may not make the
 16 final designation of a high intensity interstate gang
 17 activity area without first consulting with and receiv-
 18 ing comment from local elected officials representing
 19 communities within the State of the proposed des-
 20 ignation.

21 (2) ASSISTANCE.—In order to provide Federal
 22 assistance to high intensity interstate gang activity
 23 areas, the Attorney General shall—

24 (A) establish criminal street gang enforce-
 25 ment teams, consisting of Federal, State, and

1 local law enforcement authorities, for the co-
 2 ordinated investigation, disruption, apprehen-
 3 sion, and prosecution of criminal street gangs
 4 and offenders in each high intensity interstate
 5 gang activity area;

6 (B) direct the reassignment or detailing
 7 from any Federal department or agency (sub-
 8 ject to the approval of the head of that depart-
 9 ment or agency, in the case of a department or
 10 agency other than the Department of Justice)
 11 of personnel to each criminal street gang en-
 12 forcement team; and

13 (C) provide all necessary funding for the
 14 operation of the criminal street gang enforce-
 15 ment team in each high intensity interstate
 16 gang activity area.

17 (3) COMPOSITION OF CRIMINAL STREET GANG
 18 ENFORCEMENT TEAM.—The team established pursu-
 19 ant to paragraph (2)(A) shall consist of agents and
 20 officers, where feasible, from—

21 (A) the Bureau of Alcohol, Tobacco, Fire-
 22 arms, and Explosives;

23 (B) the Department of Homeland Security;

24 (C) the Department of Housing and Urban
 25 Development;

- 1 (D) the Drug Enforcement Administration;
- 2 (E) the Internal Revenue Service;
- 3 (F) the Federal Bureau of Investigation;
- 4 (G) the United States Marshal's Service;
- 5 (H) the United States Postal Service;
- 6 (I) State and local law enforcement; and
- 7 (J) Federal, State and local prosecutors.

8 (4) CRITERIA FOR DESIGNATION.—In consid-
 9 ering an area for designation as a high intensity
 10 interstate gang activity area under this section, the
 11 Attorney General shall consider—

12 (A) the current and predicted levels of
 13 gang crime activity in the area;

14 (B) the extent to which violent crime in
 15 the area appears to be related to criminal street
 16 gang activity, such as drug trafficking, murder,
 17 robbery, assaults, carjacking, arson, kidnap-
 18 ping, extortion, and other criminal activity;

19 (C) the extent to which State and local law
 20 enforcement agencies have committed resources
 21 to—

22 (i) respond to the gang crime prob-
 23 lem; and

24 (ii) participate in a gang enforcement
 25 team;

1 (D) the extent to which a significant in-
 2 crease in the allocation of Federal resources
 3 would enhance local response to the gang crime
 4 activities in the area; and

5 (E) any other criteria that the Attorney
 6 General considers to be appropriate.

7 (c) AUTHORIZATION OF APPROPRIATIONS.—

8 (1) IN GENERAL.—There are authorized to be
 9 appropriated \$100,000,000 for each of the fiscal
 10 years 2005 to 2009 to carry out this section.

11 (2) USE OF FUNDS.—Of amounts made avail-
 12 able under paragraph (1) in each fiscal year—

13 (A) 50 percent shall be used to carry out
 14 subsection (b)(2); and

15 (B) 50 percent shall be used to make
 16 grants available for community-based programs
 17 to provide crime prevention, research, and
 18 intervention services that are designed for gang
 19 members and at-risk youth in areas designated
 20 pursuant to this section as high intensity inter-
 21 state gang activity areas.

22 (3) REPORTING REQUIREMENTS.—By February
 23 1st of each year, the Attorney General shall provide
 24 a report to Congress which describes, for each des-

1 ignated high intensity interstate gang activity
2 area—

3 (A) the specific long-term and short-term
4 goals and objectives;

5 (B) the measurements used to evaluate the
6 performance of the high intensity interstate
7 gang activity area in achieving the long-term
8 and short-term goals;

9 (C) the age, composition, and membership
10 of “gangs”;

11 (D) the number and nature of crimes com-
12 mitted by “gangs”; and

13 (E) the definition of the term “gang” used
14 to compile this report.

15 **SEC. 111. ENHANCEMENT OF PROJECT SAFE NEIGHBOR-**
16 **HOODS INITIATIVE TO IMPROVE ENFORCE-**
17 **MENT OF CRIMINAL LAWS AGAINST VIOLENT**
18 **GANGS.**

19 (a) IN GENERAL.—While maintaining the focus of
20 Project Safe Neighborhoods as a comprehensive, strategic
21 approach to reducing gun violence in America, the Attor-
22 ney General is authorized to expand the Project Safe
23 Neighborhoods program to require each United States at-
24 torney to—

1 (1) identify, investigate, and prosecute signifi-
2 cant criminal street gangs operating within their dis-
3 trict;

4 (2) coordinate the identification, investigation,
5 and prosecution of criminal street gangs among Fed-
6 eral, State, and local law enforcement agencies; and

7 (3) coordinate and establish criminal street
8 gang enforcement teams, established under section
9 110(b), in high intensity interstate gang activity
10 areas within a United States attorney's district.

11 (b) ADDITIONAL STAFF FOR PROJECT SAFE NEIGH-
12 BORHOODS.—

13 (1) IN GENERAL.—The Attorney General may
14 hire Assistant United States attorneys, non-attorney
15 coordinators, or paralegals to carry out the provi-
16 sions of this section.

17 (2) AUTHORIZATION OF APPROPRIATIONS.—
18 There are authorized to be appropriated \$7,500,000
19 for each of the fiscal years 2005 through 2009 to
20 carry out this section.

1 **SEC. 112. ADDITIONAL RESOURCES NEEDED BY THE FED-**
2 **ERAL BUREAU OF INVESTIGATION TO INVES-**
3 **TIGATE AND PROSECUTE VIOLENT CRIMINAL**
4 **STREET GANGS.**

5 (a) RESPONSIBILITIES OF ATTORNEY GENERAL.—

6 The Attorney General is authorized to require the Federal
7 Bureau of Investigation to—

8 (1) increase funding for the Safe Streets Pro-
9 gram; and

10 (2) support the criminal street gang enforce-
11 ment teams, established under section 110(b), in
12 designated high intensity interstate gang activity
13 areas.

14 (b) AUTHORIZATION OF APPROPRIATIONS.—

15 (1) IN GENERAL.—In addition to amounts oth-
16 erwise authorized, there are authorized to be appro-
17 priated to the Attorney General \$5,000,000 for each
18 of the fiscal years 2005 through 2009 to carry out
19 the Safe Streets Program.

20 (2) AVAILABILITY.—Any amounts appropriated
21 pursuant to paragraph (1) shall remain available
22 until expended.

1 **SEC. 113. GRANTS TO PROSECUTORS AND LAW ENFORCE-**
2 **MENT TO COMBAT VIOLENT CRIME AND TO**
3 **PROTECT WITNESSES AND VICTIMS OF**
4 **CRIMES.**

5 (a) IN GENERAL.—Section 31702 of the Violent
6 Crime Control and Law Enforcement Act of 1994 (42
7 U.S.C. 13862) is amended—

8 (1) in paragraph (3), by striking “and” at the
9 end;

10 (2) in paragraph (4), by striking the period at
11 the end and inserting a semicolon; and

12 (3) by adding at the end the following:

13 “(5) to hire additional prosecutors to—

14 “(A) allow more cases to be prosecuted;
15 and

16 “(B) reduce backlogs;

17 “(6) to fund technology, equipment, and train-
18 ing for prosecutors and law enforcement in order to
19 increase accurate identification of gang members
20 and violent offenders, and to maintain databases
21 with such information to facilitate coordination
22 among law enforcement and prosecutors; and

23 “(7) to create and expand witness and victim
24 protection programs to prevent threats, intimidation,
25 and retaliation against victims of, and witnesses to,
26 violent crimes.”.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
 2 31707 of the Violent Crime Control and Law Enforcement
 3 Act of 1994 (42 U.S.C. 13867) is amended to read as
 4 follows:

5 **“SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.**

6 “(a) IN GENERAL.—There are authorized to be ap-
 7 propriated \$20,000,000 for each of the fiscal years 2005
 8 through 2009 to carry out this subtitle.

9 “(b) USE OF FUNDS.—Of the amounts made avail-
 10 able under subsection (a), in each fiscal year 60 percent
 11 shall be used to carry out section 31702(7) to create and
 12 expand witness and victim protection programs to prevent
 13 threats, intimidation, and retaliation against victims of,
 14 and witnesses to, violent crimes.”.

15 **SEC. 114. REAUTHORIZE THE GANG RESISTANCE EDU-**
 16 **CATION AND TRAINING PROJECTS PROGRAM.**

17 Section 32401(b) of the Violent Crime Control Act
 18 of 1994 (42 U.S.C. 13921(b)) is amended by striking
 19 paragraphs (1) through (6) and inserting the following:

20 “(1) \$20,000,000 for fiscal year 2005;

21 “(2) \$20,000,000 for fiscal year 2006;

22 “(3) \$20,000,000 for fiscal year 2007;

23 “(4) \$20,000,000 for fiscal year 2008; and

24 “(5) \$20,000,000 for fiscal year 2009.”.

1 **TITLE II—VIOLENT CRIME RE-**
 2 **FORMS NEEDED TO DETER**
 3 **AND PREVENT ILLEGAL GANG**
 4 **CRIME**

5 **SEC. 201. MULTIPLE INTERSTATE MURDER.**

6 Chapter 51 of title 18, United States Code, is amend-
 7 ed by adding at the end of the new section:

8 **“§ 1123. Multiple murders in furtherance of common**
 9 **scheme of purpose**

10 “(a) IN GENERAL.—Whoever, having committed
 11 murder in violation of the laws of any State or the United
 12 States, moves or travels in interstate or foreign commerce
 13 with the intent to commit one or more murders in violation
 14 of the laws of any State or the United States, and there-
 15 after commits one or more murders in violation of the laws
 16 of any State or the United States in furtherance of a com-
 17 mon scheme or purpose, or who conspires to do so—

18 “(1) shall be fined under this title, imprisoned
 19 for not more than 30 years, or both, for each mur-
 20 der; and

21 “(2) if death results, may be fined not more
 22 than \$250,000 under this title, and shall be pun-
 23 ished by death or imprisoned for any term of years
 24 or for life for each murder.

1 “(b) DEFINITION.—The term ‘State’ means each of
 2 the several States of the United States, the District of
 3 Columbia, and any commonwealth, territory, or possession
 4 of the United States.”.

5 **SEC. 202. EXPANSION OF REBUTTABLE PRESUMPTION**
 6 **AGAINST RELEASE OF PERSONS CHARGED**
 7 **WITH FIREARMS OFFENSES.**

8 Section 3142 of title 18, United States Code, is
 9 amended—

10 (1) in subsection (e), in the matter following
 11 paragraph (3)—

12 (A) by inserting “an offense under section
 13 922(g)(1) where the underlying conviction is a
 14 serious drug offense as defined in section
 15 924(e)(2)(A) of title 18, United States Code,
 16 for which a period of not more than 10 years
 17 has elapsed since the date of the conviction or
 18 the release of the person from imprisonment,
 19 whichever is later, or is a serious violent felony
 20 as defined in section 3559(c)(2)(F) of title 18,
 21 United States Code,” after “that the person
 22 committed”; and

23 (B) by inserting “or” before “the Mari-
 24 time”;

25 (2) in subsection (f)(1)—

1 (A) in subparagraph (C), by striking “or”
 2 at the end; and

3 (B) by adding at the end the following:

4 “(E) an offense under section 922(g); or”;
 5 and

6 (3) in subsection (g), by amending paragraph
 7 (1) to read as follows:

8 “(1) the nature and circumstances of the of-
 9 fense charged, including whether the offense is a
 10 crime of violence, or involves a drug, firearm, explo-
 11 sive, or destructive devise;”.

12 **SEC. 203. VENUE IN CAPITAL CASES.**

13 Section 3235 of title 18, United States Code, is
 14 amended to read as follows:

15 **“§ 3235. Venue in capital cases**

16 “(a) The trial for any offense punishable by death
 17 shall be held in the district where the offense was com-
 18 mitted or in any district in which the offense began, con-
 19 tinued, or was completed.

20 “(b) If the offense, or related conduct, under sub-
 21 section (a) involves activities which affect interstate or for-
 22 eign commerce, or the importation of an object or person
 23 into the United States, such offense may be prosecuted
 24 in any district in which those activities occurred.”.

1 **SEC. 204. STATUTE OF LIMITATIONS FOR VIOLENT CRIME.**

2 (a) IN GENERAL.—Chapter 214 of title 18, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 3297. Violent crime offenses**

6 “Except as otherwise expressly provided by law, no
7 person shall be prosecuted, tried, or punished for any non-
8 capital felony, crime of violence (as defined in section 16),
9 including any racketeering activity or gang crime which
10 involves any violent crime, unless the indictment is found
11 or the information is instituted by the later of—

12 “(1) 10 years after the date on which the al-
13 leged violation occurred;

14 “(2) 10 years after the date on which the con-
15 tinuing offense was completed; or

16 “(3) 8 years after the date on which the alleged
17 violation was first discovered.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 at the beginning of chapter 214 of title 18, United States
20 Code, is amended by adding at the end the following:

“3296. Violent crime offenses.”.

21 **SEC. 205. PREDICATE CRIMES FOR AUTHORIZATION OF**
22 **INTERCEPTION OF WIRE, ORAL, AND ELEC-**
23 **TRONIC COMMUNICATIONS.**

24 Section 2516(1) of title 18, United States Code, is
25 amended—

1 (1) in paragraph (q), by striking “or’.”;

2 (2) by redesignating paragraph (r) as para-
3 graph (u); and

4 (3) by inserting after paragraph (q) the fol-
5 lowing:

6 “(r) any violation of section 424 of the Con-
7 trolled Substances Act (relating to murder and other
8 violent crimes in furtherance of a drug trafficking
9 crime);

10 “(s) any violation of 1123 of title 18, United
11 States Code (relating to multiple interstate murder);

12 “(t) any violation of section 521, 522, or 523
13 (relating to criminal street gangs); or”.

14 **SEC. 206. CLARIFICATION TO HEARSAY EXCEPTION FOR**
15 **FORFEITURE BY WRONGDOING.**

16 Rule 804(b)(6) of the Federal Rules of Evidence is
17 amended to read as follows:

18 “(6) FORFEITURE BY WRONGDOING. A state-
19 ment offered against a party that has engaged, ac-
20 quiesced, or conspired, in wrongdoing that was in-
21 tended to, and did, procure the unavailability of the
22 declarant as a witness.”.

1 **SEC. 207. CLARIFICATION OF VENUE FOR RETALIATION**
 2 **AGAINST A WITNESS.**

3 Section 1513 of title 18, United States Code, is
 4 amended by—

5 (1) redesignating subsection (e) beginning with
 6 “Whoever conspires” as subsection (f); and

7 (2) adding at the end the following:

8 “(g) A prosecution under this section may be brought
 9 in the district in which the official proceeding (whether
 10 or not pending, about to be instituted or was completed)
 11 was intended to be affected or was completed, or in which
 12 the conduct constituting the alleged offense occurred.”.

13 **SEC. 208. AMENDMENT OF SENTENCING GUIDELINES RE-**
 14 **LATING TO CERTAIN GANG AND VIOLENT**
 15 **CRIMES.**

16 (a) **DIRECTIVE TO THE UNITED STATES SEN-**
 17 **TENCING COMMISSION.**—Pursuant to its authority under
 18 section 994(p) of title 28, United States Code, and in ac-
 19 cordance with this section, the United States Sentencing
 20 Commission shall review and, if appropriate, amend its
 21 guidelines and its policy statements to conform to the pro-
 22 visions of title I and this title.

23 (b) **REQUIREMENTS.**—In carrying out this section,
 24 the Sentencing Commission shall—

1 (1) establish new guidelines and policy state-
2 ments, as warranted, in order to implement new or
3 revised criminal offenses created under this title;

4 (2) ensure that the sentencing guidelines and
5 policy statements reflect the serious nature of the of-
6 fenses and the penalties set forth in this title, the
7 growing incidence of serious gang and violent
8 crimes, and the need to modify the sentencing guide-
9 lines and policy statements to deter, prevent, and
10 punish such offenses;

11 (3) consider the extent to which the guidelines
12 and policy statements adequately address—

13 (A) whether the guideline offense levels
14 and enhancements for gang and violent
15 crimes—

16 (i) are sufficient to deter and punish
17 such offenses; and

18 (ii) are adequate in view of the statu-
19 tory increases in penalties contained in the
20 Act; and

21 (B) whether any existing or new specific
22 offense characteristics should be added to re-
23 flect congressional intent to increase gang and
24 violent crime penalties, punish offenders, and
25 deter gang and violent crime;

1 (4) assure reasonable consistency with other
2 relevant directives and with other sentencing guide-
3 lines;

4 (5) account for any additional aggravating or
5 mitigating circumstances that might justify excep-
6 tions to the generally applicable sentencing ranges;

7 (6) make any necessary conforming changes to
8 the sentencing guidelines; and

9 (7) assure that the guidelines adequately meet
10 the purposes of sentencing under section 3553(a)(2)
11 of title 18, United States Code.

12 **SEC. 209. INCREASED PENALTIES FOR CRIMINAL USE OF**
13 **FIREARMS IN CRIMES OF VIOLENCE AND**
14 **DRUG TRAFFICKING.**

15 (a) IN GENERAL.—Section 924(c)(1)(A) of title 18,
16 United States Code, is amended—

17 (1) by striking “shall” and inserting “or con-
18 spires to commit any of the above acts, shall, for
19 each instance in which the firearm is used, carried,
20 or possessed”;

21 (2) in clause (i), by striking “5 years” and in-
22 serting “7 years”; and

23 (3) by striking clause (ii).

24 (b) CONFORMING AMENDMENTS.—Section 924 of
25 title 18, United States Code, is amended—

1 (1) in subsection (c), by striking paragraph (4);

2 and

3 (2) by striking subsection (o).

4 **SEC. 210. POSSESSION OF FIREARMS BY DANGEROUS FEL-**
 5 **ONS.**

6 (a) IN GENERAL.—Section 924(e) of title 18, United
 7 States Code, is amended to read as follows:

8 “(e)(1) In the case of a person who violates section
 9 922(g) of this title and has previously been convicted by
 10 any court referred to in section 922(g)(1) for a violent
 11 felony or a serious drug offense shall—

12 “(A) in the case of 1 such prior conviction,
 13 where a period of not more than 10 years has
 14 elapsed since the date of conviction or release of the
 15 person from imprisonment for that conviction, be
 16 subject to imprisonment for not more than 15 years,
 17 a fine under this title, or both;

18 “(B) in the case of 2 such prior convictions,
 19 committed on occasions different from one another,
 20 and where a period of not more than 10 years has
 21 elapsed since the date of conviction or release of the
 22 person from imprisonment for that conviction, be
 23 subject to imprisonment for not more than 20 years,
 24 a fine under this title, or both; and

1 “(C) in the case of 3 such prior convictions,
 2 committed on occasions different from one another,
 3 be subject to imprisonment for not less than 15
 4 years, a fine under this title, or both, and notwith-
 5 standing any other provision of law, the court shall
 6 not suspend the sentence of, or grant a probationary
 7 sentence to, such person with respect to the convic-
 8 tion under section 922(g).

9 “(2) As used in this subsection—

10 “(A) the term ‘serious drug offense’ means—

11 “(i) an offense under the Controlled Sub-
 12 stances Act (21 U.S.C. 801 et seq.), the Con-
 13 trolled Substances Import and Export Act (21
 14 U.S.C. 951 et seq.), or the Maritime Drug Law
 15 Enforcement Act (46 U.S.C. App. 1901 et
 16 seq.), punishable by a maximum term of impris-
 17 onment of not less than 10 years; or

18 “(ii) an offense under State law, involving
 19 manufacturing, distributing, or possessing with
 20 intent to manufacture or distribute, a controlled
 21 substance (as defined in section 102 of the Con-
 22 trolled Substances Act (21 U.S.C. 802)), pun-
 23 ishable by a maximum term of imprisonment of
 24 not less than 10 years;

1 “(B) the term ‘violent felony’ means any crime
 2 punishable by a term of imprisonment exceeding 1
 3 year, or any act of juvenile delinquency involving the
 4 use or carrying of a firearm, knife, or destructive de-
 5 vice that would be punishable by a maximum term
 6 of imprisonment for such term if committed by an
 7 adult, that—

8 “(i) has, as an element of the crime or act,
 9 the use, attempted use, or threatened use of
 10 physical force against the person of another; or

11 “(ii) is burglary, arson, or extortion, in-
 12 volves the use of explosives, or otherwise in-
 13 volves conduct that presents a serious potential
 14 risk of physical injury to another; and

15 “(C) the term ‘conviction’ includes a finding
 16 that a person has committed an act of juvenile delin-
 17 quency involving a violent felony.”.

18 (b) AMENDMENT TO SENTENCING GUIDELINES.—
 19 Pursuant to its authority under section 994(p) of title 28,
 20 United States Code, the United States Sentencing Com-
 21 mission shall amend the Federal Sentencing Guidelines to
 22 provide for an appropriate increase in the offense level for
 23 violations of section 922(g) of title 18, United States
 24 Code, in accordance with section 924(e) of such title 18,
 25 as amended by subsection (a).

1 **SEC. 211. CONFORMING AMENDMENT.**

2 The matter before paragraph (1) in section 922(d)
3 of title 18, United States Code, is amended by inserting
4 “, transfer,” after “sell”.

5 **TITLE III—JUVENILE CRIME RE-**
6 **FORM FOR VIOLENT OFFEND-**
7 **ERS**

8 **SEC. 301. TREATMENT OF FEDERAL JUVENILE OFFENDERS.**

9 (a) IN GENERAL.—Section 5032 of title 18, United
10 States Code, is amended to read as follows:

11 **“§ 5032. Delinquency proceedings in district courts;**
12 **juveniles tried as adults; transfer for**
13 **criminal prosecution**

14 **“(a) DELINQUENCY PROCEEDINGS IN DISTRICT**
15 **COURTS.—**

16 **“(1) IN GENERAL.—**A juvenile alleged to have
17 committed an act of juvenile delinquency, other than
18 a violation of law committed within the special mari-
19 time and territorial jurisdiction of the United States
20 for which the maximum authorized term of impris-
21 onment does not exceed 6 months, shall not be pro-
22 ceeded against in any court of the United States un-
23 less the Attorney General, after investigation, cer-
24 tifies to the appropriate district court of the United
25 States that—

1 “(A) the juvenile court or other appro-
 2 priate court of a State does not have jurisdic-
 3 tion or refuses to assume jurisdiction over that
 4 juvenile with respect to such alleged act of juve-
 5 nile delinquency;

6 “(B) the State does not have available pro-
 7 grams and services adequate for the needs of
 8 juveniles; or

9 “(C) the offense charged is a crime of vio-
 10 lence that is a felony or an offense described in
 11 section 401 of the Controlled Substances Act
 12 (21 U.S.C. 841), section 1002(a), 1003, 1005,
 13 1009, or 1010(b) (1), (2), or (3) of the Con-
 14 trolled Substances Import and Export Act (21
 15 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2),
 16 (3)), section 922(x), or section 924 (b), (g), or
 17 (h) of this title, and there is a substantial Fed-
 18 eral interest in the case or the offense to war-
 19 rant the exercise of Federal jurisdiction.

20 “(2) FAILURE TO CERTIFY.—If the Attorney
 21 General does not certify under paragraph (1), the
 22 juvenile shall be surrendered to the appropriate legal
 23 authorities of such State.

24 “(3) FEDERAL PROCEEDINGS.—If an alleged
 25 juvenile delinquent is not surrendered to the authori-

1 ties of a State pursuant to this section, any pro-
 2 ceedings against him shall be in an appropriate dis-
 3 trict court of the United States. For such purposes,
 4 the court may be convened at any time and place
 5 within the district, in chambers or otherwise. The
 6 Attorney General shall proceed by information or as
 7 authorized under section 3401(g) of this title, and
 8 no criminal prosecution shall be instituted for the al-
 9 leged act of juvenile delinquency except as provided
 10 below.

11 “(b) TRANSFER FOR FEDERAL CRIMINAL PROSECU-
 12 TION.—

13 “(1) IN GENERAL.—A juvenile who is alleged to
 14 have committed an act of juvenile delinquency and
 15 who is not surrendered to State authorities shall be
 16 proceeded against under this chapter unless—

17 “(A) the juvenile has requested in writing
 18 upon advice of counsel to be proceeded against
 19 as an adult;

20 “(B) with respect to a juvenile 15 years
 21 and older alleged to have committed an act
 22 after his fifteenth birthday which if committed
 23 by an adult would be a felony that is a crime
 24 of violence or an offense described in section
 25 401 of the Controlled Substances Act (21

1 U.S.C. 841), or section 1002(a), 1005, or 1009
2 of the Controlled Substances Import and Ex-
3 port Act (21 U.S.C. 952(a), 955, 959), or sec-
4 tion 922(x) of this title, or in section 924 (b),
5 (g), or (h) of this title, the Attorney General
6 makes a motion to transfer the criminal pros-
7 ecution on the basis of the alleged act in the
8 appropriate district court of the United States
9 and the court finds, after hearing, such transfer
10 would be in the interest of justice as provided
11 in paragraph (2); or

12 “(C) with respect to a juvenile 13 years
13 and older alleged to have committed an act
14 after his thirteenth birthday which if committed
15 by an adult would be a felony that is the crime
16 of violence under section 113 (a), (b), (c), 1111,
17 1113, or, if the juvenile possessed a firearm
18 during the offense, an offense under section
19 2111, 2113, 2241(a), or 2241(c), the Attorney
20 General makes a motion to transfer the crimi-
21 nal prosecution on the basis of the alleged act
22 in the appropriate district court of the United
23 States and the court finds, after hearing, such
24 transfer would be in the interest of justice as
25 provided in paragraph (2).

1 Notwithstanding sections 1152 and 1153, no person
2 subject to the criminal jurisdiction of an Indian trib-
3 al government shall be subject to subparagraph (C)
4 for any offense the Federal jurisdiction for which is
5 predicated solely on Indian country (as defined in
6 section 1151), and which has occurred within the
7 boundaries of such Indian country, unless the gov-
8 erning body of the tribe has elected that the pre-
9 ceding sentence have effect over land and persons
10 subject to its criminal jurisdiction.

11 “(2) FACTORS.—

12 “(A) IN GENERAL.—Evidence of the fol-
13 lowing factors shall be considered, and findings
14 with regard to each factor shall be made in the
15 record, in assessing whether a transfer under
16 subparagraph (B) or (C) of paragraph (1), and
17 paragraph (4) of subsection (d), would be in the
18 interest of justice:

19 “(i) The age and social background of
20 the juvenile.

21 “(ii) The nature of the alleged of-
22 fense, including the extent to which the ju-
23 venile played a leadership role in an orga-
24 nization, or otherwise influenced other per-
25 sons to take part in criminal activities.

1 “(iii) Whether prosecution of the juve-
2 nile as an adult would protect public safe-
3 ty.

4 “(iv) The extent and nature of the ju-
5 venile’s prior delinquency record.

6 “(v) The juvenile’s present intellectual
7 development and psychological maturity.

8 “(vi) The nature of past treatment ef-
9 forts and the juvenile’s response to such
10 efforts.

11 “(vii) The availability of programs de-
12 signed to treat the juvenile’s behavioral
13 problems.

14 “(B) NATURE OF THE OFFENSE.—In con-
15 sidering the nature of the offense, as required
16 by this paragraph, the court shall consider the
17 extent to which the juvenile played a leadership
18 role in an organization, or otherwise influenced
19 other persons to take part in criminal activities,
20 involving the use or distribution of controlled
21 substances or firearms. Such a factor, if found
22 to exist, shall weigh in favor of a transfer to
23 adult status, but the absence of this factor shall
24 not preclude such a transfer.

1 “(C) NOTICE.—Reasonable notice of the
 2 transfer hearing under subparagraph (B) or (C)
 3 of paragraph (1) shall be given to the juvenile,
 4 the juvenile’s parents, guardian, or custodian
 5 and to the juvenile’s counsel. The juvenile shall
 6 be assisted by counsel during the transfer hear-
 7 ing, and at every other critical stage of the pro-
 8 ceedings.

9 “(c) MANDATORY TRANSFER OF JUVENILE 16 OR
 10 OLDER.—A juvenile who is alleged to have committed an
 11 act on or after his sixteenth birthday, which if committed
 12 by an adult would be a felony offense, that has an element
 13 thereof the use, attempted use, or threatened use of phys-
 14 ical force against the person of another, or that, by its
 15 very nature, involves a substantial risk that physical force
 16 against the person of another, may be used in committing
 17 the offense or would be an offense described in section
 18 32, 81, or 2275 or subsection (d), (e), (f), (h), or (i) of
 19 section 844 of this title, subsection (d) or (e) or subpara-
 20 graphs (A), (B), (C), (D), or (E) of subsection (b)(1) of
 21 section 401 of the Controlled Substances Act, or section
 22 1002(a), 1003, or 1009, or paragraphs (1), (2), or (3)
 23 of section 1010(b) of the Controlled Substances Import
 24 and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1),
 25 (2), and (3)), and who has previously been found guilty

1 of an act which if committed by an adult would have been
 2 one of the offenses set forth in this subsection or sub-
 3 section (b), or an offense in violation of a State felony
 4 statute that would have been such an offense if a cir-
 5 cumstance giving rise to Federal jurisdiction had existed,
 6 shall be transferred, upon notification by the United
 7 States, to the appropriate district court of the United
 8 States for criminal prosecution.

9 “(d) SIXTEEN AND SEVENTEEN YEAR OLDS
 10 CHARGED WITH THE MOST SERIOUS VIOLENT FELO-
 11 NIES.—

12 “(1) IN GENERAL.—Notwithstanding any other
 13 provision of law, a juvenile may be prosecuted as an
 14 adult if the juvenile is alleged to have committed,
 15 conspired, solicited or attempted to commit, on or
 16 after the day the juvenile attains the age of 16 any
 17 offense involving—

18 “(A) murder;

19 “(B) manslaughter;

20 “(C) assault with intent to commit murder;

21 “(D) sexual assault (which means any of-
 22 fense that involves conduct that would violate
 23 chapter 109A if the conduct occurred in the
 24 special maritime and territorial jurisdiction);

1 “(E) robbery (as described in section 2111,
2 2113, or 2118);

3 “(F) carjacking with a dangerous weapon;

4 “(G) extortion;

5 “(H) arson;

6 “(I) firearms use;

7 “(J) firearms possession (as described in
8 section 924(c);

9 “(K) drive-by shooting;

10 “(L) kidnapping;

11 “(M) maiming;

12 “(N) assault resulting in serious bodily in-
13 jury; or

14 “(O) obstruction of justice (as described in
15 1512(a)(1)) on or after the day the juvenile at-
16 tains the age of 16.

17 “(2) OTHER OFFENSES.—In a prosecution
18 under this subsection the juvenile may be prosecuted
19 and convicted as an adult for any other offense
20 which is properly joined under the Federal Rules of
21 Criminal Procedure, and may also be convicted as an
22 adult of a lesser included offense.

23 “(3) REVIEWABILITY.—Except as otherwise
24 provided by this subsection, a determination to ap-
25 prove or not to approve, or to institute or not to in-

1 stitute, a prosecution under this subsection shall not
2 be reviewable in any court.

3 “(4) PROSECUTION.—(A) In any prosecution of
4 a juvenile under this subsection, upon motion of the
5 defendant, the court in which the criminal charges
6 have been filed shall after a hearing determine
7 whether to issue an order that the defendant should
8 be transferred to juvenile status.

9 “(B) A motion by a defendant under this para-
10 graph shall not be considered unless filed no later
11 than 30 days after the date on which the defendant
12 initially appears through counsel or expressly waives
13 the right to counsel and elects to proceed pro se.

14 “(C) The court shall not order the transfer of
15 a defendant to juvenile status under this paragraph
16 unless the defendant establishes by clear and con-
17 vincing evidence that removal to juvenile status
18 would be in the interest of justice. In making a de-
19 termination under this paragraph, the court shall
20 consider the factors specified in subsection (b)(2) of
21 this section.

22 “(5) ORDER.—An order of the court made in
23 ruling on a motion by a defendant to transfer a de-
24 fendant to juvenile status under this subsection shall
25 not be a final order for the purpose of enabling an

1 appeal, except that an appeal by the United States
 2 shall lie to a court of appeals pursuant to section
 3 3731 of this title from an order of a district court
 4 removing a defendant to juvenile status. Upon re-
 5 ceipt of a notice of appeal of an order under this
 6 paragraph, a court of appeals shall hear and deter-
 7 mine the appeal on an expedited basis. The court of
 8 appeals shall give due regard to the opportunity of
 9 the district court to judge the credibility of the wit-
 10 nesses, and shall accept the findings of fact of the
 11 district court unless they are clearly erroneous, and
 12 the court of appeals shall review de novo the district
 13 court's application of the law to the facts.

14 “(e) SIXTEEN AND SEVENTEEN YEAR OLDS
 15 CHARGED WITH OTHER SERIOUS VIOLENT FELONIES.—

16 “(1) IN GENERAL.—Except as provided by sub-
 17 section (d), a juvenile may be prosecuted as an adult
 18 if the juvenile is alleged to have committed an act
 19 on or after the day the juvenile attains the age of
 20 16 which is committed by an adult would be a seri-
 21 ous violent felony as described in paragraphs (2) and
 22 (3) of section 3559(a).

23 “(2) OTHER OFFENSES.—In a prosecution
 24 under this subsection the juvenile may be prosecuted
 25 and convicted as an adult for any other offense

1 which is properly joined under the Federal Rules of
2 Criminal Procedure, and may also be convicted as an
3 adult of a lesser included offense.

4 “(3) REVIEWABILITY.—Except as otherwise
5 provided by this subsection, a determination to ap-
6 prove or not to approve, or to institute or not to in-
7 stitute, a prosecution under this subsection shall not
8 be reviewable in any court.

9 “(4) PROSECUTION.—(A) In any prosecution of
10 a juvenile under this subsection, upon motion of the
11 defendant, the court in which the criminal charges
12 have been filed shall after a hearing determine
13 whether to issue an order that the defendant should
14 be transferred to juvenile status.

15 “(B) A motion by a defendant under this para-
16 graph shall not be considered unless filed no later
17 than 30 days after the date on which the defendant
18 initially appears through counsel or expressly waives
19 the right to counsel and elects to proceed pro se.

20 “(C) The court shall not order the transfer of
21 a defendant to juvenile status under this paragraph
22 unless the defendant establishes by clear and con-
23 vincing evidence that removal to juvenile status
24 would be in the interest of justice. In making a de-
25 termination under this paragraph, the court shall

1 consider the factors specified in subsection (b)(2) of
2 this section.

3 “(5) ORDER.—An order of the court made in
4 ruling on a motion by a defendant to transfer a de-
5 fendant to juvenile status under this subsection shall
6 be a final order for the purpose of enabling an ap-
7 peal. Upon receipt of a notice of appeal of an order
8 under this paragraph, a court of appeals shall hear
9 and determine the appeal on an expedited basis. The
10 court of appeals shall give due regard to the oppor-
11 tunity of the district court to judge the credibility of
12 the witnesses, and shall accept the findings of fact
13 of the district court unless they are clearly erro-
14 neous, and the court of appeals shall review de novo
15 the district court’s application of the law to the
16 facts.

17 “(f) PROCEEDINGS.—

18 “(1) SUBSEQUENT PROCEEDING BARRED.—
19 Once a juvenile has entered a plea of guilty or the
20 proceeding has reached the stage that evidence has
21 begun to be taken with respect to a crime or an al-
22 leged act of juvenile delinquency subsequent criminal
23 prosecution or juvenile proceedings based upon such
24 alleged act of delinquency shall be barred.

1 “(2) STATEMENTS.—Statements made by a ju-
2 venile prior to or during a transfer hearing under
3 this section shall not be admissible at subsequent
4 criminal prosecutions except for impeachment pur-
5 poses or in a prosecution for perjury or making a
6 false statement.

7 “(3) FURTHER PROCEEDINGS.—Whenever a ju-
8 venile transferred to district court under subsection
9 (b) or (c) is not convicted of the crime upon which
10 the transfer was based or another crime which would
11 have warranted transfer had the juvenile been ini-
12 tially charged with that crime, further proceedings
13 concerning the juvenile shall be conducted pursuant
14 to the provisions of this chapter.

15 “(4) RECEIPT OF RECORDS.—A juvenile shall
16 not be transferred to adult prosecution under sub-
17 section (b) nor shall a hearing be held under section
18 5037 (disposition after a finding of juvenile delin-
19 quency) until any prior juvenile court records of
20 such juvenile have been received by the court, or the
21 clerk of the juvenile court has certified in writing
22 that the juvenile has no prior record, or that the ju-
23 venile’s record is unavailable and why it is unavail-
24 able.

(b) CONFORMING AMENDMENT.—The analysis for chapter 403 of title 18, United States Code, is amended by striking the item relating to section 5032 and inserting the following:

15 SEC. 302. NOTIFICATION AFTER ARREST.

•S 155 IS

1 **SEC. 303. RELEASE AND DETENTION PRIOR TO DISPOSI-**
 2 **TION.**

3 (a) DUTIES OF MAGISTRATE JUDGE.—Section 5034
 4 of title 18, United States Code, is amended—

5 (1) in the first undesignated paragraph, by
 6 striking “The magistrate judge shall insure” and in-
 7 serting the following:

8 “(a) IN GENERAL.—

9 “(1) REPRESENTATION BY COUNSEL.—The
 10 magistrate judge shall ensure”;

11 (2) in the second undesignated paragraph, by
 12 striking “The magistrate judge may appoint” and
 13 inserting the following:

14 “(2) GUARDIAN AD LITEM.—The magistrate
 15 judge may appoint”;

16 (3) in the third undesignated paragraph, by
 17 striking “If the juvenile” and inserting the following:

18 “(b) RELEASE PRIOR TO DISPOSITION.—Except as
 19 provided in subsection (c), if the juvenile”; and

20 (4) by adding at the end the following:

21 “(c) RELEASE OF CERTAIN JUVENILES.—

22 “(1) IN GENERAL.—A juvenile, who is to be
 23 tried as an adult under section 5032, shall be re-
 24 leased pending trial in accordance with the applica-
 25 ble provisions of chapter 207.

1 “(2) CONDITIONS.—A release under paragraph
 2 (1) shall be conducted in the same manner, and
 3 shall be subject to the same terms, conditions, and
 4 sanctions for violation of a release condition, as pro-
 5 vided for an adult under chapter 207.

6 “(d) PENALTY FOR AN OFFENSE COMMITTED WHILE
 7 ON RELEASE.—

8 “(1) IN GENERAL.—A juvenile alleged to have
 9 committed, while on release under this section, an
 10 offense that, if committed by an adult, would be a
 11 Federal criminal offense, shall be subject to prosecu-
 12 tion under section 5032.

13 “(2) APPLICABILITY OF CERTAIN PENALTIES.—
 14 Section 3147 shall apply to a juvenile who is to be
 15 tried as an adult under section 5032 for an offense
 16 committed while on release under this section.”.

17 (b) DETENTION PRIOR TO DISPOSITION.—Section
 18 5035 of title 18, United States Code, is amended—

19 (1) by striking “A juvenile” and inserting the
 20 following:

21 “(a) IN GENERAL.—Except as provided in subsection
 22 (b), a juvenile”; and

23 (2) by adding at the end the following:

24 “(b) DETENTION OF CERTAIN JUVENILES.—A juve-
 25 nile who is to be tried as an adult under section 5032

1 shall be subject to detention in accordance with chapter
2 207.”.

3 **SEC. 304. SPEEDY TRIAL.**

4 Section 5036 of title 18, United States Code, is
5 amended to read as follows:

6 **“§ 5036. Speedy trial**

7 “(a) IN GENERAL.—If an alleged delinquent, who is
8 to be proceeded against as a juvenile pursuant to section
9 5032 and who is in detention pending trial, is not brought
10 to trial within 70 days from the date upon which such
11 detention began, the information shall be dismissed on mo-
12 tion of the alleged delinquent or at the direction of the
13 court.

14 “(b) PERIODS OF EXCLUSION.—The periods of exclu-
15 sion under section 3161(h) shall apply to this section.

16 “(c) JUDICIAL CONSIDERATIONS.—In determining
17 whether an information should be dismissed with or with-
18 out prejudice, the court shall consider—

19 “(1) the seriousness of the alleged act of juve-
20 nile delinquency;

21 “(2) the facts and circumstances of the case
22 that led to the dismissal; and

23 “(3) the impact of a reprosecution on the ad-
24 ministration of justice.”.

1 **SEC. 305. FEDERAL SENTENCING GUIDELINES.**

2 (a) APPLICATION OF GUIDELINES TO CERTAIN JU-
 3 VENILE DEFENDANTS.—Section 994(h) of title 28, United
 4 States Code, is amended by inserting “, or in which the
 5 defendant is a juvenile who is tried as an adult,” after
 6 “old or older”.

7 (b) GUIDELINES FOR JUVENILE CASES.—Section
 8 994 of title 28, United States Code, is amended by adding
 9 at the end the following:

10 “(z) GUIDELINES FOR JUVENILE CASES.—Not later
 11 than May 1, 2006, the Commission, pursuant to its rules
 12 and regulations and consistent with all pertinent provi-
 13 sions of any Federal statute, shall promulgate and dis-
 14 tribute, to all courts of the United States and to the
 15 United States Probation System, guidelines, as described
 16 in this section, for use by a sentencing court in deter-
 17 mining the sentence to be imposed in a criminal case if
 18 the defendant committed the offense as a juvenile, and is
 19 tried as an adult pursuant to section 5032 of title 18.”.

○